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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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10/577,922

05/01/2006

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04/09/2007

EXAMINER

ARIANI, KADE

ART UNIT

PAPER NUMBER

1651

| SHORTENED STATUTORY PERIOD OF RESPONSE | MAIL DATE | DELIVERY MODE |
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3 MONTHS

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/577,922

Applicant(s)

MOLARINHO VELLY ET AL.

Examiner

Kade Ariani

Art Unit

1651

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____.

DETAILED ACTION

A reference to any prior application to which applicant is claiming priority must be inserted as the first sentence of the specification.

Claim 1 is pending in this application and were examined on their merits.

Title

The title of the invention is too long and is not descriptive. A new title is required that is clearly indicative of the invention to which the claim(s) is/are directed.

Specification

The disclosure is objected to because of the following informalities:

The following words are misspelled throughout the specification:

--preoccupation-- as "preoccupation" (p.1, lines 19 and 22), --parallel-- as "parallely" (p. 1, Line 21), --external-- as "extemal" 9p.1, Line 27), --amino acids-- as "aminoacids" (p.2, line 8), --pathologic-- as "cypathologic" (p.2, line 4), --potentiallity-- as "potenciality" (p.2 , lines 25 and 27), --dermis-- as "derm" (p.3 line 4), --lyophilized-- as "liofilizated" (p. 4, line 7), --substantia-- as "substancial" , --sequelae-- as "sequelas" --cicaterization-- as "cicatersation" and injured-- as "injured" (p.4, lines 20, 21 and 23), -- injectable-- as "injetable" (p.5, line 10).

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The language of claim 1 is confusing and is such that a person of ordinary skill in the art could not interpret the metes and bounds of the claim, therefore it is indefinite. If the language of the claim is such that a person of ordinary skill in the art could not interpret the metes and bounds of the claim so as to understand how to avoid infringement a rejection of the claim under 35 U.S.C. 112, second paragraph, would be appropriate. See *Morton Int'l, Inc. v. Cardinal Chem. Co.*, 5 F.3d 1464, 1470, 28 USPQ2d 1190, 1195 (Fed. Cir. 1993).

The phrase "characterized by" in claim 1 is indefinite in that it is unclear whether the characteristic delineated is the only characteristic which defines a given material or whether the characteristic is only one of several of the characteristics which are not delineated. Thus the phrase fails to clearly set the metes and bounds of the claimed invention.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Blanchard et al. (US Patent No. 6159, 496) in view of Junqueira et al. (Cell Tissue Research, 1979, Vol. 202, p.453-460) and further in view of Otte et al. (The Journal of Cell Biology, 1990, Vol. 111, p.271-278) and further in view of Sai & Babu (Comparative Biochemistry & Physiology Part B, 2001, Vol. 128, p.81-90).

Claim 1 is drawn to a keratin gel and type 2,4, and 6 collagens of frog protein for topical use or for lamina preparation use, chemical treatment, washing and drying of keratin.

Blanchard et al. teaches a keratin hydrogel, chemical treatment of a keratin source to obtain dried and ground powder (see Abstract and Col.2, Lines 58-65), adding collagen to the keratin hydrogel (Col. 5, line 7), and keratin hydrogel provides a wound healing agent that maintains wound moisture and provides a scaffold for cell growth for tissue engineered implants, also can be used as a skin care product (Col. 3, Lines 22-26).

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Blanchard et al. does not teach types 2, 4, and 6 collagen of frog protein.

However, at the time the invention was made collagen Types II, IV and VI of frog were all very well known in the art (see Junqueira et al. Abstract and Introduction and Otte et al., Abstract and p.277, Col.1 Discussion).

Moreover, at the time the invention was made biomedical and cosmetic applications of keratin and collagen because of their biocompatibility and structural versatility were very well known in the art. Furthermore, the unique physico-chemical properties of frog collagen and the role of frog collagen in wound healing was also well known in the art (Sai & Babu, see Introduction). Therefore one would have been motivated to use keratin gel and collagen of frog for lamina preparation or in cosmetic products with a reasonable expectation of success.

Accordingly, the invention taken as whole is *prima facie* obvious.

Conclusion

No claims allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kade Ariani whose telephone number is (571) 272-6083. The examiner can normally be reached on 9:00 am to 5:30 pm EST Mon-Fri.

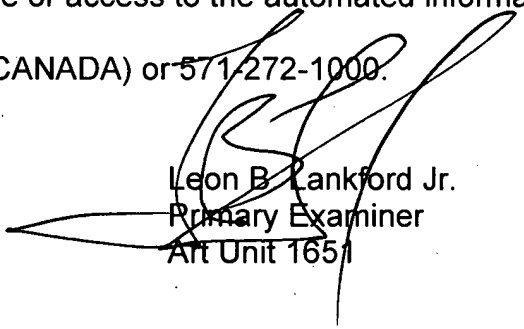
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Wityshyn can be reached on (571) 272-0926. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Kade Ariani
Examiner
Art Unit 1651



Leon B. Lankford Jr.
Primary Examiner
Art Unit 1651